App. F. IX-4

Previous References

193 (Canc)

File No. 129-3(

Serial Nos. 1—8

Later References
Pol Dep no. 651—31

57

General and Revenue Secretariat.

Serial Nos. Enclosures

Part B for April 1931

SUBJECT.

Criminal Revision petition no 153 of 1930
in Suit No 72 of the High Court (in I.A.T. Nos
& Civil) and Govt of Mysore.

General and Revenue Secretariat | File No. | of 193

Serial No.	
1	To, M Seshadri, Esq District Magistrate Bangalore D.O. No 453/P dated 17th Sept enquiring about the arrangements made to conduct the appeals filed by Mr K.T. Bhashyam & others. Letter No: CC 96 dated 18 Sept from the Dt magte stating that Mr P. Rajaratnam who conducted the case in the lower Court maybe asked to conduct the appeal also & intimating that the appeals posted to 15/10/30 for hearing To, M. Seshadri Esq D.O No 454/P dated 19th Sept approving the suggestion as to Mr. Rajaratnam being appointed & requesting to be informed of the progress made in the case on the 15th & subsequent dates — Please put up a draft to the Dt magte enquiring as what happened to the case on the 15th Oct & to which date

The Dist. Magte

2749 dt 13.11.30 enquiring as t
happened at the appeal on the 15th ct.
If any the case is adjourned.
Please remind if no reply
is recd by the end of this
week. BM 17.11.

Dft Rr is put up.

General and Revenue Secretariat | File No. | of 193

Serial No.

Dft G.O. is put up accordingly

TSD
23/12

The Govt Advocate in the usual course of his business appears for Govt in the Revn case filed by one K.T. Bhashyam - It is not clear in what respects assistance is required in the conduct of the case in the High Court Moreover the proposal of the Dt engte involves additional expenditure under 18-2- Courts of Law fees to Advocates etc - the grant under which has been spent already -

Draft G.O sanctioning is however put up as ordered on the P.U.D -

In Criminal appeals & Revn cases in the High Court, notice is issued to the Govt Advocate ~~alone~~ direct who under rule 19 of the Legal affairs Rules appears for govt. No special orders are usually issued to him ~~to appear~~ by govt in such cases. Since however, according to Rule 31, he does not report to Govt on the result of such cases unless specially requested, a draft letter is put up for favour of approval.

(Chief Secy)

BNP
29/12

Dft to the DC Bangalore is bound up

ISD 6/1

Issd MM 6/1

To

The Dist. Magte Blore

No. P. 3955 dd 8th Jany 1931 forwarding a copy of the letter addressed to the Govt. Ad. and requesting to send for the information of the Govt a copy of the judgement pronounced by the Addl Sessions Judge.

Letter No. J.D. 2002/30-31 dated 20th Jan 1931 from the Dist Magte Bangalore stating that the entire records being submitted to the High Ct for reference in Cr. Ap. 23/30-31 preferred by Mr. K.T. Bhashyam ... City Supt of Police has been instructed to obtain a copy and send it, which will be subd in due course.

This may be awaited.

D.O. No. 49 dated 2nd March 1930 from Govt. Ad. I. informing that orders were issued setting aside the Convictions sentences passed against all the petitioners acquitting them.

Copy of the judgment may be

Subd. for perusal

In reply please refer to
No. 619

Tel. Address
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore... 31st March *19*31.

Law 129-30-8

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

In continuation of my D. O. letter No.49 dated the 2nd March 1931, I have the honor to forward herewith, for the information of Government, a copy of the Order passed in Criminal Revision Petition No.155 of 1930-31 on the file of the High Court of Mysore, (Mr. K.T. Bhashyam Iyengar and others, VS. Government of Mysore).

I have the honor to be,
Sir,
Your most obedient servant,

Criminal revision petition No.15b of 1950 - 31.

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]
8. [illegible]
9. [illegible]
10. [illegible]
11. [illegible]
12. [illegible]
13. [illegible]

Accused 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13 and 15. } PETITIONERS.

(a) [illegible]
2. [illegible]

This criminal Revision Petition coming on for final hearing on Monday the 9th day of February 1981, the Court pronounced the following:-

O R D E R.

The first accused was convicted by the first Magistrate, Bangalore, of an offence under section 143 read with section 188 Indian Penal Code for abetting certain mill labourers on 9th Dec of July 1979 to form an unlawful assembly, the common object of which was to commit the offence of holding meeting in Dharmambudi Tank bed in contravention of the City Magistrate's order dated 29th June 1979 and sentenced to three months' simple imprisonment. The second accused was convicted of the offence of abetting the offence of assaulting public servants in the discharge of their duty when suppressing a riot or dispersing an unlawful assembly and sentenced to undergo simple imprisonment for three months. The other accused were convicted under sections 146 and 188 Indian Penal Code for rioting and assaulting public servants while dispersing an unlawful assembly or suppressing a riot and sentenced to undergo simple imprisonment for three months On each count and the sentences were ordered to run concurrently. On appeal the Additional Sessions Judge confirmed the conviction but reduced the - sentence in the case of the 1st accused to one month The accused have presented this revision petition - against their conviction.

The case according to prosecution is briefly this:- On the 29th of June 1979, the City Magistrate issued an order under section 144 Criminal Procedure

Code directing that no public meetings should be held and no assemblies collected and no processions - organised or conducted within the limits of the City of Bellary or Cantonment during a period of 2 months from that date without previously obtaining a license or permission from him. As owing to some propaganda and spread of false rumours, considerable misunderstandings are created in the minds of the public and as some of the mill workers were due to propaganda or intended to create disturbance of the peace, he considered it necessary to issue such an order imposing restrictions on the conduct of public meetings to prevent disturbance of public tranquility or a riot or an affray or danger to public life. This order was printed and the leaflets were distributed among the people. It is alleged that on 2-7-1938 a clerk of the Labour Union office applied for a license to hold a meeting in view of this order but the application is not produced and there is no evidence to support the allegation. On the 3rd of July at about 4-30 P.M. the accused and some mill labourers - assembled in the Dharmambudhi Tank Bund to hold a meeting without obtaining a license. The police who got information proceeded to the spot and persuaded the labourers not to hold a meeting in the absence of license from the Magistrate, and the labourers th proceeded towards Coutonment. The first accused who is the President of the Bangalore Textile Labour Union happened just then to be going from Triplicat side towards north on his bicycle and he met the mill - labourers coming from the opposite direction near Subbaiya Chetty's Choultram. He [illegible]

questioned the labourers as to why they returned; and when he heard that the police had dispersed them and would not allow them to hold a meeting, he replied "what could the police do, proceed". The first accused then went away on his bicycle towards power lines and the labourers went back to the tank bed shortly thereafter, and when questioned by the police, stated that they wanted to hold a meeting as the first accused had told them to hold one. The labourers were again dispersed by the police and they all went towards Cottonpet road. The police followed them towards Cottonpet; brick bats were thrown against them and at the Cottonpet square, the 2nd accused is said to have told the labourers to beat the police. The police dispersed the crowd and some of the police constables were injured. Mr. Krishna Iyengar, the Inspector, on the basis of the statement supplied by the constables and in his own personal knowledge, registered a case at 3 P.M. against the accused: on 4-7-1929, he filed a petition before the District Magistrate of Bangalore alleging, that for the reasons mentioned therein proceedings should be taken against accused 1 and 2 under section 107 Criminal Procedure Code to bind them as petitioners for keeping the peace. The District Magistrate forwarded the petition to the Special First Class Magistrate for disposal. As the Magistrate overruled the contention of the defence counsel regarding his competency to initiate proceedings, the matter came up before this Court on revision. The case was heard by the learned Chief Justice on 7th of August 1929 and orders were reserved, and a charge sheet in regard to the same event was placed on 3-8-1929 in the pre-

present case. The learned Chief Justice set aside the order of the District Magistrate and the proceedings of the Special Magistrate taken in pursuance of the order of the District Magistrate forwarding the petition.

The accused pleaded not guilty and the 4th accused set up in addition a plea of alibi. The counsel for the accused has raised a number of contentions regarding the validity of the order issued by the City Magistrate and has also contended very vehemently that the evidence on record does not bring home the charge against the accused. The charge against the first accused is that when he met the mill labourers in front of Subbaiya Chetty's Chattram and heard from them that they could not hold a meeting as they were dispersed by the police, he advised them not to mind the police but to proceed, and that the labourers on hearing his advice returned to the tank bed and that in spite of the persuasion on the part of the police, again assembled for holding a meeting. Three witnesses have been examined to prove the conversation between the first accused and the mill labourers: They are Rangappa (Prosecution witness No.2), Puttiah (Prosecution witness No.12) and police constable Govindiah (Prosecution witness No.5). Rangappa and Puttiah are independent witnesses but Rangappa was first examined on 11-12-1939 and Puttiah on 12-2-1940. The latter has materially improved upon the version given by Rangappa and there are also material discrepancies in the evidence of these two witnesses. The presence of these witnesses at the Chattram appears to be improbable. Rangappa states that the house of Puttiah is between Komala

Village and Municipal garden about 30 paces behind Komala Vilas and that he went in search of him. The lane to Puttiah's house turns to the east of Arlepet road about 100 feet to the south of Subbiaya Chetty's chattram, and when there was no previous arrangement to meet at the Chattram, how could Rangappa have expected Puttiah to be at the Chattram which is not on the way to his house? Rangappa expressly denies having asked Puttiah to meet him at the Chattram, but Puttiah says that Rangappa had sent a boy to him from Chattram to meet him there. On almost every one of the material points, these two witnesses have contradicted themselves. Rangappa does not say that the first accused asked the labourers to go back and hold the meeting: in fact his evidence does not suggest that the first accused referred to any meeting: but Puttiah says that the first accused expressly told the labourers to go back and hold the meeting. Even the police constable Govinda does not say that any such words were uttered by the first accused. From a perusal of the evidence it looks obvious that full advantage is taken of the long interval in the examination of witnesses deposing to the same fact to fill up the gaps. The learned trial Magistrate who recorded the evidence has disbelieved the evidence of prosecution witnesses Rangappa and Puttiah and we have very carefully perused the evidence of those two witnesses and we think the learned Magistrate's conclusion is right. The only other witness who speaks to the actual words that passed between the first accused and the labourers is police Constable Govinda. The police also relied in support of their case against the first accused upon the fact that the labourers returned to the tank bed and said they would hold a meeting as they were advised to do so by the

first ~~by the first~~ accused. The labourers who made the statements are not examined and even their names are not mentioned. Mr. Krishnanger (Prosecution witness No.10) mentions for the first time in his evidence that the accused 3 to 13 were the persons who made that statement, but his evidence stands uncorroborated, and the fact that all their names are not mentioned in the First Information Report shows that his statement cannot be accepted and that it is a later development. The statements were not made in the presence of the first accused. Statements made by persons who are not examined as witnesses would only be hearsay, and are not admissible under Section 8 of the Evidence Act. The evidence of the Police Officers only shows that the men who were dispersed came back after meeting the first accused. That fact coupled with the evidence of Govinda may raise a suspicion against the first accused. The evidence of Constable Govinda does not also clearly indicate that the first accused incited the labourers to hold a meeting in defiance of the order of the Magistrate he does not say that the first accused told the crowd to go back to the tank bed and hold a meeting there were are different versions as to the words alleged to have been uttered by him. The version mentioned in exhibit A9 is completely at variance with that given out by Govinda at the trial. The evidence is extremely insufficient to bring home the charge against the first accused and we think that he is entitled to be acquitted of the charge brought against him.

The case against the second accused is that when there was a disturbance in front of the Labour Union office in the Cottonpet Square, he was in a room in the first floor and used the words : "What do you see, beat them". In the charge sheet we find the names of three non-official witnesses and three police witnesses who could speak personally to this incident. Two of the independent non-official witnesses have not been examined and no satisfactory explanation has been offered for not examining them. The third witness Venkatappa Chetty (Prosecution witness No.8) does not in the least support the prosecution. He does not say that he saw the second accused at the Union Office or that the 2nd accused incited the labourers to attack the police. There are thus only two police witnesses who spoke to this incident: They are Sanjundiah and Kondoji Rao. We were taken over the whole evidence recorded in the case and we find that no witness has stated that these words were addressed by second accused to the labourers or that the accused wanted the police to be beaten by the labourers. - Sanjundiah states that the crowd coming from Subba-Setty's Choultry towards Cottonpet square came pelting stones, and that some fifty men may have pelted stones all directed at the police. His evidence suggests that when some of the labourers got into the Union Building, Ramaswamy used the words attributed to him and that there was stone throwing from the Union office. But Kondoji Rao who was throughout with him does not support him: he says that stones came only from the west or goods-shed side, and from no other direction. It is in evidence that that was the time for the men working in the goods-shed to come out and that they are all Police. (See Prosecution witnesses

Nos.9 and 3). It is somewhat significant that no independent witness has been examined to prove the part taken by the second accused, and that those whose names were put in in the charge sheet should also have been given up. The inference seems irresistible and the evidence adduced is open to suspicion. The conviction cannot under the circumstances be upheld.

The charges against the other accused are that they were members of an unlawful assembly at Dharmambudhi Tank and up to Arlepet Square, and in prosecution of their common object committed rioting and that they assaulted Sergeant Nanjundaya and other police officers when they were endeavouring to suppress the riot. Abdul Samath Khan (Prosecution witness No.1) does not say that he saw any of these accused at the tank: he says he saw only accused 3, 4, 5, 6 and 7 for the first time that day only at the Cottonpet - Square. Nanjundia (Prosecution witness No.) saw accused 3 to 13 there. Govinda (Prosecution witness No.5) who was specially deputed to move along with the crowd says that he did not see any of the accused in the crowd at the tank bed or at the Arlepet square when the crowd came back at the time of the disturbance. Mr. Krishna Rao Inspector also did not see any of the accused at the tank bed though he was with - Messrs. Krishna Iyengar and Samath Khan. Nathan Khan (Prosecution witness No.7) and Mahomed Pir (Prosecution witness No.8) who were on duty at Thotadappa's Choultry did not see the accused in the crowd. The only witness on the side of the prosecution who says that accused 3 to 13 were present at the Dharmambudhi Tank bed is Mr. Krishna Iyengar. That statement was made by him for the first time nearly six months after the occurrence.

He has not explained as to why their names were not included in the First Information Report which he is alleged to have submitted to the City Magistrate that night if he had really seen them at the tank bed arranging to hold a meeting in contravention of the Magistrate's order. The statement stands uncorroborated by any other evidence.

In regard to the part taken by these accused in the incidents at the Cottonpet square, the evidence adduced by the prosecution is extremely meagre and unsatisfactory. Mr. Abdul Wasath Khan says that though he could not identify the persons who threw stones near Subbarayalu Chettiar, he noticed accused 3, 4, 5, 6 and 7 threw stones and brick bats at Cottonpet Square. His cross-examination shows that some of those persons had figured as witnesses against him in a criminal case and that he had also instituted some cases against them. Ranjundaya (Prosecution witness No.3) who was also at the square says that though accused 3 to 13 were there, only accused 7 to 13 pelted stones and brick bats. But he does not know the names of any of the accused, and he admits that he does not know who is who. He says:- "I mentioned the names of the accused to the Inspector and he took my signature to that statement. I have also said that Sathnarayn and Thanga Velu and others ran away. I may have mentioned only those names. ----I did not know which person was Sathnarayn and which person was Thangavelu. The Inspector examined me on the next morning." Khandoji Rao (Prosecution witness No.4) who was with Ranjundaya says that accused 5, 8 and 11 threw stones and brick bats. His detailed statement was recorded that night

by Sarath Khan and his signature was also taken to it. He admits that he did not mention the names of any of the accused before the Asst Inspector or the Inspector that night; he did not know their names even on the date of the trial. Krishnan Khan (prosecution witness No.7) says:- "I recognised accused No.1 and No.3 in stone: - - - - I knew the name of the accused who hurt me. I have forgotten it now. It may be Krishna or something. - - - I do not remember. My statement was reduced to writing. I do not remember if I signed it. I have mentioned therein the name of the accused. ----- My statement was taken in writing in Telugu sometime at 7 p.m. I do not remember whether by Sarath Khan or any other officer. The statements of a number of constables on duty were reduced to writing. I signed my statement". Ishwara Iyer (prosecution witness No.8) says: "Raju (accused 8) threw a stone at me. I do not know the name of the person who hit me. I saw him for the first time that day. ---- My statement was recorded during investigation. I have said that he can be identified. I pointed out the men who hurt me during the parade yesterday in the Union office. I was questioned in the square and the statement reduced to writing yesterday in the Union office. It is accused 8 Raju that I identified that night in the Union office as the person that threw a stone at me. I do not know one Rajagopal. I did not show him at any time." All this story is a myth. Mr. Krishna Iyengar swears that Ishwara Iyer identified Rajagopal and not Raju. The investigation by the Police in the present case

in extremely unsatisfactory. Witness after witness has sworn that his detailed statement was recorded in writing and his signature taken to it. These materials were not placed before the court. Parade was held in the premises of the Union office that very night, and the accused are alleged to have been identified at that parade by the Police Sergeant and constables, but the Register prepared at the time is not forthcoming, and there is no knowing whether the identification at the trial nearly a year after the occurrence substantially coincides with the identification made immediately after the occurrence.

The one vital question in this case is whether the evidence of the above prosecution witnesses who profess to have seen the various accused amongst the crowd should be accepted. Though absolute exactness of detail cannot be expected from the witnesses on account of the confused and prolonged rioting like the one in the present case, still if the evidence leaves the fact of the accused having been members of the crowd and of their having assaulted the police in doubt they are entitled to be acquitted. The evidence in regard to the identification seems to us to be extremely untrustworthy and in this connection the fact that important materials were not placed before the court by the prosecution cannot altogether be ignored. We think that as the evidence leaves very much in doubt the part taken by the accused in the rioting and even their very presence, they are entitled to the benefit of that doubt and to be acquitted of the charges brought against them.

In the result, setting aside the conviction and sentence, we acquit the accused of the charges brought against them.

Sd/. D.K. Rama Ra
U D G E.

Sd/. G. Sreenivasa Iyer.
J U D G E.

a Com

In the Court of the First Magistrate,

BANGALORE.

Dated 30th August 1930.

Present:-

P.H. Krishna Rao, Esquire, M.A.,

First Magistrate,

Bangalore.

RD 8/9/30

Criminal Case No.74 of 29-30.

Complainant, Accused.

Government. Vs. 1. Mr.K.T.Bhasyam Iyengar,
2. " P.M. Ramasarma.
3. Ratnam Iyya,
4. Thagavelu,
5. Gopal,
6. Masilamani.
7. Dharmalingam.
8. Raju,
9. Narain Sami,
10. Jayavelu,
11. Munisami,
12. Ponnasami,
13. Dorasami,
14. Manikyam.

Offence under Sections 143-147-150-151-152-323-109 and 114 I.P.C.

J u d g m e n t.

The facts of the case are briefly set for in the written statement (EX.p3) of Police Sub Inspector, Mr.Abdul Sammathkhan (Presented to Mr.N.C.Krishnaiengar, Police Inspector, at 9 P.M., on 3-7-1929.

2. On that day at about 4-30 P.M., he got information that some labourers had collected in the Dharmambudhi tank to hold a meeting. He proceeded to the spot and saw there the Police Inspector of Bangalore Taluk, the Sub Inspector and some other officers and men of the city and taluk, and about 300 labourers siting in the tank bed. All of them () Police Officers () persuaded the labourers not to hold a meeting in the absence of a license by the Magistrate as the order under Section 144 Cr.P.C. prohibiting such unlicensed meetings was still in force. The labourers went towards the Cottonpet, but returned towards the tank bed in about 16 minutes. Mr.K.T. Bhasyam Iyengar came in

advance on a cycle leading them, but went away towards the Old Sowar Line Square. I.D. Ramasingh and Govinda who had been deputed to follow the labourers when they first left the tank bed, also returned with the labourers and when Mr.Sammathkhan questioned them as to why the labourers returned theysaid that Mr.Bhasyam Iyengar had asked them to return and convene a meeting in defiance of the Police authorities. The Police again persuaded the labourers to disperse. They left the tank bed reluctantly saying that Mr.Bhasyam had told them not to go away. They moved on in a body towards Cottonpet Square. By the time they removed on in a body towards Cottonpet, Sammathkhan himself went to Cottonpet Square bricks were being pelted bythe labourers on the Police. He saw among them Gopal, (A5) Thangavelu (A4) Ratnamayya(A3) Masilamani(A6) Dharmalingam(A7) and several others throwing bricks. He succeeded in dispersing the crowd with the help of the Police officers who came from the Tank bed. He ascertained from Sergeant Nanjundaih and P.C.317 Kandoji Rao that Mr.Ramasarma had instigated the labourers to use violence against Police. Sergeant Nanjundiah and some more constables were hurt with the bricks.

3. On the basis of this statement supplimented by his own personal knowledge, Mr.N.C.Krishna Iyengar registered a case at 9 A.M., on 30-7-1930 for offences under Sections 143, 147, 150 and 153 I.P.C., against Mr.K.T.Bhasyam Iyengar, Mr.Ramasarma and the five - others mentioned in Sammathkhan's statement. The chargesheet was placed on 8-8-29 against 16 accused including the seven mentioned in the F.I.R., but proceedings were not taken in court against two of them- Rajagopal and Abboy, as they could not be accused. The case therefore proceeded against 14 persons who were accused of offences under Sections 151 323 and 109 and 114 I.P.C. also in addition to those for which the case was registered.

4. Of the twentyfive witnesses cited in charge-sheet, (a) P.C. Ramasingh, one of the four who had to speak about

4. Of the fourteen witnesses examined out of the twentyfive cited in the chargesheet, Mr.N. Rama Rao(P.W.3) Secretary to Government, Developement Department, and Mr.Ranganatha Rao Sanib (P.W.14 Director of Industries and Commerce, went from the Select Picture Palace to

Palace to Aralepet Square along the Dharmambudhi tank bund and in front of Subbachetty's choultry. They did not find any labourers in the tank bed or in Aralapet or Aralepet Square, but were told that they were in the Union Office. Mr.Rama Rao says he found several Bricks bats lying about the square. Both the officers went up the Labour Union office situated in the North west corner of the Square, and found 25 to 30 labourers in the outer room and 10 to 15 in the inner. Mr.Ranganatha Rao Sahib says that those in the outer room were reading a news papers; and Mr.N. Rama Rao says that when questioned why they had come there and what the trouble was they said they had come there and "Simply"(that is for no ostensible reason) and that there had been no trouble. Mr.Rama Rao describes those in the inner room as in a terbulant mood and describes himself as stricking up a heroic attitude when it was pointed out to him that the matter he was then typing was not calculated to alay labour unrest and one or two passages in it would make him liable under the law. Both of them went to the spot on the information given to them by Mr. C.Narainswami Naidu, and evidently after the disturbance was over and after the Police had succeeded in dispersing the crowd - They are not witnesses of the disturbance itself but their evidence is invaluable as they speak of the square being strewn with brick bats confirming the factof the disturbance, of the mood of the labourers in the Union Office and the presence of Ramasarma and Ratnamayya(A3) in the inner room.

6. Venkatappasetti(PW9) and reserve P.C.No.241 Varadasetti (PW.11) do not say anything directly involving the accused before Court. They speak in general terms about the facts of the disturbance. Rangappa (P.W.3) and Puttayya (12) are the only non-official witnesses and all the rest are Police witnesses.

7. Mr.N.C.Krishnaiyengar(PW10) is the Investigating Officer. He has been examined at very great length. According to his deposition, the City Magistrate passed the order(EXP1) series on 29-6-2 directing under sections 144 Cr.P.C., that no public meeting should be held, and no assemblies collected, and no processions organized or conducted within the limits of the city or Taluk of Bangalore.

during a period of two months from this date without previously obtaining a license or permission from the City Magistrate. This order was got printed and distributed in leaflets; Mr.Krishnaiengar personally distributed some and sent some more to him subordinates for publication. Signatures of many members of the Public were obtained on several leaf-lets. Ex.P 1 (a) P.1(b), P.1(c) and P.1(d) are some of them. Ex.P.2 is the report of P.C.No.225 Krishnayya who published the leaflets Ex.P2(a) and Ex.P.2(b) and obtained the signatures or many people on the back of the leaflets. The printed copies were also affixed in prominent places in the Mill area and copies were given in the labour office at Malleswaram and Cottonpet. Mr.Krishna Iyengar personally saw that copies were affixed on the walls in the Mill area. It can therefore be believed, as deposed to by the witness, that Mr.K.T. Bhasvam. President of the Textile Labour Union and Ramasarma(Secretary of the same Union) were aware of this order, as well as the other accused though the signatures of either the Secretary or the President are not found in any copy of the order, dated 29-6-29. The clerk of the Union office is said to have applied for a license 2-7-29 referring to this but the application has been exhibited in the case. Though the license was not granted that day, the Clerk (Parthasarathy Iyengar) D.W.2 is ssid to have assembled in the Dharmambudhi tank bed that evening accused 3 to 14 and several others the witness came to know of this went to the tank, showed them the order and asked them to disperse which they accordingly did so that at least the prohibitory was certainly brought to the notice of accused 3 to 14 yet, on the evening of 3-7-29 between 4-30 and 5 P.M., they assembled once again in the Tank bed to hold a meeting without a license the accused 3 to 14 being in the crowd. He asked them to disperse showing again the order to the people assembled and explaining it to them, though he did not take the signature of any. After some hesitation they went towards Cottonpet He sent two constables Ramsingh and GovindaP.W.5 behind them. Within a few minutes, accused 3 to 14 with others who had gone as far as Subbasetty's choultry returned towards the tank with K.T.Bhasvam in front of them on a cycle. The constables too came back and on being questioned said that the labourers had returned to hold a meeting at the instigation of Bhasyam. The crowd got down in to the tank bed and Bhasyam byked off towards the Old Sowar line

He asked the accused once again not to hold the meeting but all of them (3 to 14) with one voice declared that they were determined to hold the meeting as they were instructed to do so by their President K.T.Bhasyam. When he warned them that he would have to force if they did not disperse, some began to move off and some still persisted. It was only the arrival of reinforcements from Upparpet Police station that finally made the rest of the crowd also move towards Arlepe The Police followed the crowd and were asking them to disperse in different directions. When they neared Subbachetty's choultry some of the crowd began to pelt stones at the Police. The Police therefor had recourse to force and disperse the crowd into Goodsshed road and other by lanes of Cottonpet. Then they heard Police whistles from Cottonpet square he went to the square, and found a crowd of people throwing stones, brick-bats etc., at the Police, and the Police dispersing them. from Sergeant Nanjunda Rao and four duty Constable Kandaiah Rao There he learnt the Mill hands attacked the Police on duty there at the instance of the second accused Ramasarma, who was even th then present in the office upstairs. Stones were still being pelted from the Good-shed side and Sammathkhan and others were dispersing the crowd. The road was strewn with bricks bats. He asked Sergeant Nanjundayya(P.W.3) P.C.67 Mastan Khan(P.W.7) and reserve P.C.241 Varadasetti (P.W.11) P.C.Lakshmana Rao and P.C.Markende Row to go to hospital for treatment. Accused 7 to 14 were present near the Labour Union office when he went there and he saw them run up the labour Unio Office; but he can not say whether any of the accused pelted stones as it was a big crowd By the time Mr.N.Rama Rao and Mr.Ranganatha Rao Sahib arrived he had dispersed the crowd. His evidence ~~xxx~~ therefore confirms in toto the statement of Sammathkahn and is - necessarily in greater detail the important details mentioned by him and not within the knowledge of Sammathkhan are the presence of the accused 3 to 14 in the tank bed on both the occasions the crowd was dispersed, their determination to hold the meeting, and their being found near the Labour Union office in Aralepet square at the close of the disturbance there.

This witness is corroborated by Abdul Sammath Khan(PW1) about the publication of the City Magistrate's order, the previous intimation to the accused in particular of the order, their omission to

to obtaine a license before holding the meeting, the labourers being persuaded to leave the tank bed, Constables Govinda Rao and Ramasingh being sent after them, the crowd turning back under the leadership of Bhasvam, Bhasyam going away on a cycle and the labourers discending on again, the report of the constables that Bhasyam had and asked laboure to hold a meeting in defiance of Police instructions; the statement by some of the labourers themselves when asked to disperse the second time that Mr.Bhasyam had advised them to hold the meeting, some of the labourers throwing stones at Subba Chetty choultry and their being driven into Kemannagundi (Goodshed road) and Arlepet; the attafk on the Police with brick bats and stones the Aralepet square being strewn with such missiles, and the injury to some of the constables and Sergeant Nanjundayya. His statement in Court only confirms his first report in the day of occurrence with the addition that there was pelting of stones near Subba Setti's choultry along and in this addition he is corroborated by Mr.N.C.Krishna Iyengar.

It must be remembered that Sammathkahn went with the crowd to Cottonpet and that the other Police officers were still behind. It does not appear that he was still at Jothaji Rao's shop or Subba Chetty's choultry when the other Police officers heard the Police whistles from the Chowk. He was perhaps already there. He was certainly in the square much before Mr.N.C.Krishna Iyengar arrived there. So it is he has seen more of the incident in the square than Krishnaiengar. He actually saw Ratnamayya 3 Thangavelu, A4 Gopal, A5 Masilamani A6, Dharmalingam A7 and several - others throw stones and brick bats on the Police. His evidence strikes me as very frank and straight forward and is quite in confirmity with his statement immediately after the occurrence. It has been suggested by the counsel for first and second accused that Mr.N.C.Krishna Iyengar first tried to get them bound over under Section 107 Cr.P.C. and as it was very early obvious to him that proceedings under that section would be quashed by the High Court, he as a later though involved them in this case, so that, so to speak, he may have two strings to his bow - Sammath Khan has mentioned in his very first statement given within three hours of the disturbance, the part played by the two accused. Rama Sharma had been arrested at 7 P.M., and Bhasyam at 9 P.M.; and proceedings under Section 107 Cr.P.C. had not been initiated a gainst them. It is absurd to say that in that short time and

time and before he could have even had an apprehension that proceedings under Section 107 Cr.P.C., would fail, he falsely tried to involve two innocent accused in this case. Much as been made use of the omission of Sammathkhan to mention in his first statement the very word used by Bhasyam when he incited the mob to hold a meeting and the very words used by Ramasarma to incited the mob to violence. As rightly pointed out oy the Prosecutor, Sammath Khan did not personally hear the words. They were reported to him by certain constables. He has mentioned the facts. There was no need to-give more details and he could not be given more even if he wanted to. Even in the court he has not give those details and he has not been asked about them either by the prosecution or accused. He says frankly that he was not present when Ramasarma incited the labourers.

Sergeant Najundayya (PW3) sayd that about 5-45 or 6 P.M., on 3-7-29 a crowd of 200 or 300 mill labourers came towards Aralepet square from the direction of Subbachetti's choultry, that some of them got into the Union building, that from the room on the first floor Ramasarma cried out "What do you see? hit out" (ಏಕ್ ಏನ್ ಅಂತ ಹೊಡಿರಿ ಅಂತ) that the crowd began to pelt brick bats and stones, that all accused except one and two were in the crowd but he saw only A7 8, A9, A10 A11 and A12 and A13 pelting stones etc., that he and some three or four constables received blows, whereupon the blow the whistles, and on additional assistants being received, dispersed the crowd some of whom went up the labour Union office. This witness does not know the names of the accused. He pointed them out in court without mentioning their names. The only accused known to him by name is Gopal (A5) and he does not say that he pelted stones. According to the deposition of Krishna Iyengar witness identified the very same persons within a few hours of the occurrence, the arrest of these accused persons immediately (according to arrest Report Ex.P5) supports the truth of such identification. If Nanjundayya and other constables wanted to identify all the sundry, they need not have confined their identification to 8 or 10 persons out of about 30 persons drawn up for identification.

The other witnesses that identify some of the accused are P.C. No.317 Kandoji Rao(PW4), P.C.No.67 Masthankhan(P.W.7) P.C.No.248 Mohamed Peer PW8 Kandoji Rao says that A5 Gopal, A8, Raju and all Munisamy

threw stones and brick bats. He had not seen any of the accused before. Even in court he does not name the persons but points them out. He says specifically that he did not know the name of any of the accused and does not know the name of any even now. Still he was not one of the persons who identified the accused on the night of the occurrence. Mr.Krishna Iyengar's positive that none other than P.W.3, P.W7, PW8 took part in the identification. This witness was examined by Krishna Iyengar only on 7-7-1929. Tt does not appear if the accused were before the witness when he was questioned. So he could not have either named them or pointed them out. He says in fact that he did not mention the names of any of the accused before either Krishna Iyengar or Sammathkhan I find however from a reference to the notice of Mr. Krishna Iyengar made on 7- -29 that this P.C. said that he saw Gopal A5 Thangavelu (a@ A4), Ratnamayya (a3) Masilamani(A6) and Raju(A8) pelting brick bats and they all ran away except A8 and A3 who went to the Union Office. The identification of A11(Munisamy) by his witness in court can not therefore be relied on. It is only accused 5 and 8 that find a place in his statement both in court and before the Investigating officer. Accused 3 and 4 are said to have been mentioned by the witness before the investigating officer, but they are not mentioned in court. On the whole therefore I consider it unsafe to rely on the evidence of this witness for the identification of any of the accused.

We are therefore left with the evidence of P.W.1 (Sammatha Khan PW.3 Sergeant Nanjundiah. PW7 Masthan Khan and PW 10. N.C. Krishna Iyengar as theoonly evidence on which reliance can be placed as to the identity of the accused. According to N.C.Krishna Iyengar accused 3 to 14 were in the unlawful assembly in the tank bed, they returned a second time under instructions of Bhashyam all of them in one voice declared that they were ~~prepared~~ determined to hold the meeting, and he found accused 7 to 14 near the Labour-Union Office, when he went there and he saw them run upon the Labour Union Office. Samath Khan has named accused 3 to 7 as those that pelted stones, sergeant Nanjundiah has identified accused 7 to 13 and Masthan Khan has identified A.14. There is the evidence of a reliable character against all the accused 3 to 14. As to 1st accused Bhashyam in addition to what is mentioned in the F.I.R. and the depositions of Samath Khan and N.C. Krishna Iyengar that the crowd that they had sent away from the tank bed returned under his leadership, we have the evidence of PW.2 Rangappa, PW.5 Govinda, PW6 K. Krishna Rao, PW7 Masthan Khan, PW8 Mahamod Peer, and PW 12 Puttiah, that he instigated the labourers to defy the police. PW5 Govinda is one of the two constables who was asked to follow the crowd from the tank bed. He says that Bhashyam was coming up from Aralapet Square and asked the crowd why they were coming back. The crowd replied that the Police had sent them away saying they should not hold a meeting. Then Bhashyam said " [illegible] He took the lead and the crowd followed until he went away on his Bicycle and the crowd got down into the tank bed. PW2 Rangappa gives the same account and says the words used by Mr. Bhashyam were " [illegible] " PW 12 Puttiah corroborates them, but says the words used by Mr. Bhashyam were " [illegible] " The other witness PWs 6,7,and8 corroborate Samath Khan and Krishna Iyengar. Police Inspector Krishna Rao PW6) says that Bhshyam came fromm Aralpet side, on his bicycle, and then the crowd returned and when asked said they were going to hold a meeting as they were asked to do so by Mr. Bhashyam. PW7 says that Bhashyam met the crowd,-- they said something/ he said something and went away on his bicycle and then the crowd returned to tank bed. PW8 too says

PW8 too says that the crowd returned as the result of Mr. Bhashyam meeting them. We have therefore the evidence of no less than 8 witnesses (PWs 1, 2, 5, 6, 7, 8, 10, 12) On the point that the crowd returned as the direct result ofmeeting Bhashyam and that some in the crowd, as a matter of fact said when questioned that he had asked them to hold a meeting. It is argued by the counsel for Bhashyam that no two of the three witnesses (Pws 2, 5 and 12) who heard the exact words used, agree. It is so, but the import is the same. They cannot expect the witnesses to remember the ex ed at the end of nearly a year. It is also argued for the accused that even assuming that he used the words attributed to him, it does not necessarily follow that his intention was to abet the holding of a meeting in defiance of the order under Section 147 Cr. P.C. "పోయి" may simply mean "Go Home" instead of "Go to the tank" I think the meaning has to be inferred from the context and the import when "పోయి" is taken in conjunction with "[illegible]" is unmistakable. It is defiance of the police. The meaning has also to be inferred from the immediate effect of the words which was to make the labourers return to the tank bed with the determination to hold a meeting It has also been brought to my notice that PW 7 says that Bhashyam instigated the labourers near a nerale tree 20 feet from the tap near Subba setty's choultry, whereas other witnesses say it was in front of the choultry itself. This is no descrepancy. For Bhashyam and the crowd were not stationary, but were moving towards the old Sawar lines and they may have moved 20 feet during the course of conversation. I have thus no doubt of his having abeted an offence under section 143 I.P.C. even though I do not believe the evidence of PWs 2 and 12 on account of certain descrepancies in their evidence, as there is other overwhelming evidence. A charge was therefore framed against him for an offence under section 143/109

misunderstanding, for Kandoji Rao knows very well the difference between the two expressions. The 2nd accused in his statement says that the Tamil,words are so rediculous that it is absurd to concieve that a pure Tamilian like him would ever think of using such hybrid language. I do not think the language Hybrid and one must remember that it is aKannada-speaking witnesses that are re-prdducing the Tamil words used. A charge was therefore framed against this accused for an offence under section 152/ 114 I.P.C.

It was argued on behalf ofthee rest that it was impossible that they should have been in the tank bed near Suboa setty's choultry and in Aralepet square, and that it is improbable that if they really took part in the disturbance they would have been found in the labour Union office by the Police. It is not the case for the prosecutionnthat any or all of the accused 3 to 14 took part in the stone throwing at Subbasetty's choultry. Mr. Venkatapathiah for the accused seemed to think the 1st charge under section147 I.P.C. implied it but it was made clear to him that the intention of the court in framing the charge was that the violence was in Aralepet aquare, "upto" including the aquare also. They could be present in the tank and when dispersed they may have gone to Aralepet square when the Police officers in the tank were still near SubbaSetty Choultry. It is argued that the stone throwing in the square must have been by a different set of people than those in the tank bed, for the police whistle was after stone throwing in the square and at that time the accused were still near Subbasetty's choultry. It is not in evidence that accused 3 to 14 were near the choultry when the stone-throwing began. They might have already reached the square The next argument is that as stones were pelted from the west and south of the square and not from the north, the accused from the tank could not have indulged in stone throwing. The crowd from the tank was not all driven into Aralapet but were dispersed along the Goods shed road and the byelanes. The accused may have reached the square from the direction of the Goods shed in which case there is nothing strange in stones being pelted from the west by the accused As to the improbability of the accused taking shelter in the Labour Union Office they could not help it as the police came in force.

The first rushed into the office and they could not get out as ingress and eggress was afterwards obstructed by the police. Three charges were framed against these accused namely under sections 147 and 152 I.P.C. and in the alternative under section 151 I.P.C. Beyond pleading not guilty to the charge of alleged offences and abetment against himthe 1st accused did not wish to state anything further. He refused to plead after the charge was framed and read over to him.

The 2nd accused Ramasarma admits that he was in the Union Office on the evening of 3-7-29 attending to his legitimate duties and says that the police rushed in, created trouble and prevented ingress and eggress to the office. He admits he advised the labourers and was then typing a statement. It was then that Mr. N. Ramarao and Ranganatharao Sahib came into the Labour Union Office. The police placed sentries near the door of the Union Office Premises after the two gentlemen left. The police are then said to have gone upstairs and assaulted and arrested all those present. He says it was the Police that were creating trouble and that were provoking a breach of the peace by indulging in reckless indiscriminate assault. The alleged words of abetment are said to be concoction as is the entire prosecution case against the accused.

P.A. Parthasarathy Iyengar PW2, issexamined to support the statement of A.2. He says that he went to the office at 5 P.M. on that day and that Rama Sarma came three or four minutes later, and there was galata done in the street, 5 or 6 minutes later. He looked through the window and found there were five or six constables surrounded by a crowd of hundred or hundred and fifty. Some were coming by the side of the Railway Station and others were standing all round. Ordinary curiosity would induce any person under the circumstances to enquire what the matter was or at least witness the disturbance. But it appears that Ramasarma asked witness to shut the door as there would be disturbance for his typing. Witness shut the windows and asked the peon to shut the door on the ground floor. He is not sure if his instructions were carried out by the peon. He says Ramasarma did not talk to the people in the street and that he opened the door of the office room only after Mr. N.

Mr. N. Rama Rao and Mr. Ranganatha Rao Saheb asked him to do so. If so, how did the dozen labourers that were found by the 2 gentle men in the office room get in there. The witness says the three or four labourers that were in the office room when he shut the door continued to be there even when he opened the door. This contradicts the statement of both the gentlemen (Pws 13 and 14) and I believe the latter. According to this witness the police came up into the office only after the two gentlemen had left. They did not come up even with the officers. So the statement of 2nd accused that even before he sat down for typing, the police rushed in, created trouble and prevented ingress and egress is not supported by his own defence witness. Then again if as deposed to by Dw2, Ramasarma did not speak to any labourers at all how and when did he advise the labourers as admitted in his statement. The door downsrairs could not have been secured; for otherwise so many labourers could not have got in. Even this witness however supports the prosecution in two important parti culars. (a) He did not observe anything unusual in the square when he went to the office and (b) the police drew up in line the labourers in the verandah and some of them were identified by some policemen a mahazar was drawn up only such of those that were pointed out were arrested and taken away. The witness does not support the 2nd accused in the statement that there was an indiscriminate assault on those found inside and that all those who were inside were arrested. Dws. 3, 4 and 6 have been examined to show that the disturbance was the result of the policemen in the square obstructing people from going in the direction of the Railway Station, that it was quite unconnected with the crowd in the tank bed that the stone throwing was in re-talliation of the caning by the police and that when stone throwing commenced it was from the goods shed road and Aralepet and not from the tank might come from the direction of the goods shed road. Under these circumstances, the crowd from Railway Station Road coming to the square only after stone throwing had already commenced does not disprove that the accused were among the stone throwers. That the Policemen used force to disperse the unlawful assembly does not justify the stone throwing in retaliation. And I do not believe that the stone throwing was the result of the Police obstructing the usual traffic. It is also argued that at the worst the 2nd accused

was an accesaary after the fact that sergeant Nanjundiah says in cross-examination that the crowd came from the direction of the Railway Station pelting stones and so thay did not need his abetment; that his cry may have indicated approval or even satisfaction but not incitement. Nanjundiah's statement in cross-examination stands by itself unsupport by the evidence of any other witness either for the prosecution or the defence in the fact of his own defective evidence that stone throwing began only after Ramasarma cried out "ಕೃಷ್ಣಾರ್ಪಣ" supported as it is by Kandoji Rao. I do not think he was only an accessary after the fact. As I have already discussed and shown elsewhere the pelting from Railway station side or even the arrival of the crowd from the direction of Railway Station was subsequent to stone throwing in the square and it is this stone throwing that A2. is said to have abetted.

A3 Ratnamiah admits he was in the Union Office when Mr. N. Ram Rao and Mr. Rao Saheb went there that he left it only after them and that he went there half an hour before them. It is strange that he still knew nothing of the disturbance.

A4. Tangavelu denies that he went to Aralepet at all in the evening of 3-7-29. He says he went to S.L.N. Press in the morning and stayed there till 7-30 P.M. Dwi Singlachar, Manager, Sree Lakshmi Narasimha Printing Press on the other hand says that A4 placed the order in the morning and came again at 4 P.M. and waited till 7 P.M. As the witness admits there is nothing on record to show that A4 alone took the printed notices or that he had come on 3-7-29. So many orders have been placed by so many people during the last year that witness cannot remember the hour at which each order was placed or the hour at which each person came for delivery. It is strange that he should remember the hours only in this case. The initials "K.R." on the bill are not explained. The counterfoil of the bill does not bear any date. The evidence of this witness cannot therefore be taken

A7. Dharamalingam says he went to the Union office at 5-30 P.M. and that Messrs. N. Rama Rao and Rao Saheb came ten minutes later and that there was no galata whatsoever then. His defence evidently is that he went there after the disturbance. He says he was there till 10 P.M. and nothing unusual happened. He admits that the policeentered the Union office, and that he innocently asked Dw2 what it was for. But he was told to mind his business. Yet this is the accused that was identified by sergeant Najundiah and arrested at 11 P.M. that night and he must have witnessed the arrest of A2 at 7 P.M. and A1 at 9 P.M. I cannot therefore believe his statement. He too has not examined any witness. A8 must have entered the Union building simultaneously with A7 for it was ten minutes after him that Mr. N. Rama Rao and Mr. Rao Saheb came. I do not believe his statement that he was forcibly pushed in by Samath Khan A9 Narayanaswamy says that he went to the office only after 7 P.M. and that Nanjundiah identified him. He says he was working for cooly in Cahamarajpet till 6 P.M., but has not examined any witness.

A10. Jayavelu too admits he was identified by a Policeman as his assailant but denies he went to Union office before 6-30 P.M. He has examined no Dw.

A11. Muniswamy was discharged as his identity was not established by the prosecution.

A12 Ponnuswamy admits his presence in the Union office and his arrest and that he was there even before Mr. N. Rama Rao and Mr. Rao Saheb.

A13 Boraswamy says he went to the office at 4-30 P.M. and stayed there till 10 P.M. But still he knows nothing of the disturbance. This is unbelievable as according to the evidence for the defence itself the fact of the disturbance is admitted.

A14 Manikyam makes a statement similar to that of A13 and that also is unbelievable.

So on the whole the facts on which the charges were framed against all the accused (except 11) remain unrebutted. There is therefore no reason to acquit any accused on the charge or charges against him.

Coming to the question of law, 2 objections have been taken

by Mr.Venkatapathaiya for accused - first that the order under Section 144 Cr.P.C. the disobedience of which led to the offence, is not a valid and lawful order and second that there has been a misjoinder of charges and persons in the present trial. He has cited many cases in support of his contension. I find it unnecessary to refer to them in detail as the facts are not analogous in point of facts of law. On the subject of validity he contents (1) that it is not aparent from the order that the Magistrate has sufficient ground for proceeding under this section. (2) that the uggency of the matter requiring - immediate prevention or speedy remedy is also not made out in the order as it does not state the material facts (3) that the order is directed to the public generally not when frequenting or visiting a particular place, but even to those permanently resident in Bangalore City and Taluk(4) that there was no sufficient ground for proceeding under this section as there was already in force an order under section 45 of the Police regulation which was serving the same purpose as this order and (5) that the order is not directed against a certain act but several acts. I am not in a position to form an opinion as to which the Magistrate had sufficient ground as the evidence he had before him i not available to me and as Mr.Narayanaswamy Naidu himself has not been examined as a witness in this case. For the same reasons I am unable to say whether there was such an urgency as is contemplated in the section, The material facts however, are mentioned in the order. " Considerable suspicious and misunderstandings were created in the minds of the people of the city and taluk of Bangalore owing to some propaganda and spread of false rumours and they had been repeated strikes in some of the mills in the city and there had been a recent stricke in the Maharaja Mills due to propaganda intended to create a disturbance of the peace. The last fact perhaps indicates the urgency of the - matter. The existence of the order under Section 45 of the Police Regulation may make another order under section 144 Cr.P.C. superflous but no authority is cited to show it is illegal. The first is an order passed by the Magistrate in his executive capacity and the second is the one passed in a judicial proceeding. I think "Certain act" does no mean a 'Single act, but a certain <u>kind</u> of act. The kind of act prohibited under the order is the holding of assemblies and conduct of processions. It has been held in 16 Cr.L.J.190(Oudh)

that the intension of Sub Section (3) of section 144 is to extend rather than to restrict the scope of the order so as to include even casual or frequent visitors from outside the limits of the particular locality. The argument that it could not be directed against residents but only against casual or frequent visitors was not accepted. On the whole I don't think that the accused have shown the order to have been unlawful, so that its disobedience would be no offence. No attempt was also made to have the order cancelled if the accused thought it was unlawful.

The second objection is to the joint trial of A1 and A2 and the other accused. It is argued that though the accused 3 to 14 and Bhasyam could be tried together for an offence under Section 143 I.P.C and its abetment. Rama Sarma(A2) cannot be well tried with them as the offence he alleged was altogether different being an assault on public servants, punishable under section 152 I.P.C. not contemplated or alleged by Bhasyam. It is also argued that Bhasyam, though he may have abetted an offence under section 143 I.P.C. can be said to have abetted the use of violence which converted the offence into one of rioting. It is pointed out by Mr.Rajaratnam that the abettor may be tried with the actural perpetrators though they may have exceeded the limits contemplated by the abettor (30 Cal 453-Sohoni Page 596. Vide also section 111 to 115 I.P.C) There is thus no doubt that Bhashyam could be properly tried with accused 3 to 14. That Ramasarama who abetted the offence under section 152 I.P.C. could be tried along with accused 3 to 14 who committed the offence cannot be called in question. The only objection is to Bhashyam and Sharma being tried together. This could not be helped under the circumstances of the case. It is not as if the trouble in Aralepet square was distinct and separate from the incident in the Tank or the trouble on the way to Aralepet square. It is one continuous transaction both in proximity of time and continuity of purpose. Ramasarama no doubt joined the unlawful assembly later in time. But he must be considered as sharing their common object as soon as he joined the other accused. The common object of the assembly when he joined it may have been different from what it was in the beginning. But

so long as the transaction is the same, the joint ~~xxxxxx~~ trial of persons taking part in a riot even with different common object at different times is held to be valid. (Page 598 Sohini. 11. Cr. L.J. 30). I therefore sonsider that Ramasarama 's trial with other accused is not illegal or irregula:

In the result I find all the accused (with the exception of All Muniswamy who has been already discharged) guilty and convict and sentence them as under:-

The first accused K.T. Bhashyam is convicted of the offence of abetting the offence of forming an unlawful assembly punishable under section 143/ 109 I.P.C. and is sentenced to undergo simple imprison ment for a period of three months.

The second accused Ramasarma is convicted of the offence abetting the offence of assaulting public servants in the discharge of their duty when suppressing a riot or dispersing an unlawful assembly, punishable under Section 152/114 I.P.C. and is sentenced to undergo simple imprisonment for a period of three months.

The other accused (3, 4, 5, 6, 7, 8, 9, 10, 12, 13 and 14) Rathanaya, Thangavelu, Gopal, Masilamani, Dharmalingam, Raju, Narayanaswamy, Jayavelu, Ponnuswamy, Doraswamy and Manikyam respective ly are convicted of the offences of rioting punishable under section 147 I.P.C. and as assaulting public servants while dispersin an unlawful assembly or supressing a riot punishable under sections 152 I.P.C. and are each sentenced to undergo simple imprisonment for three months on each account the sentence to run concurrently

IN THE COURT OF THE FIRST MAGISTRATE, BANGALORE.

Dated the 30th day of August 1930.

Complainant, Accused.

Vs.

Government K.T. Bhashyam and others.

Appendix to Judgement.

The prosecution examined the following witnesses:-

1. Abdul Samath Khan. 2. Rangappa. 3. Nanjundiah. 4. Kandoji Rao 5 Govinda. 6. K. Krishn Rao. 7. Masthakhan. 8. Mahmad Peer. 9. Venkatappachetty. 10. N.C. Krishna Iyengar. 11. Verada Setty. 12. Puttiaya. 13. Mr. N. Rama Rao. 14. Mr. Ranganatha Rao Saheb.

and filed exhibits.

Exp1 (a) to (d) printed notices issued by the City Magistrate Bangalore in Mis No. 183 of 28-28 dated 29-6-29.
Exp2. (a & b) Printed notices issued by the City Magistrate Bangalore in Mis. 183Ø28-29 dated 29-6-29 enclosed to Exp2.
EXp2. report from P.C. 225 Krishnayya dated 30-6-29. P2-
Exp3 Statement of Abdul Samatha Khan dated 3-7-29 before the Police Inspector of "B" Division.
Exp4 Some typed papers containing six sheets.
EXp5 Arrest repot
EXp6 Letter from K.T. Bhashyam Iyengar to the City Magistrate Bangalore dated 4-3-29
EXp7 License application to the City Magistrate Bangalore, dated 4-3-29 and 25-5-29
EXp8 -Do- dated 1-6-29

The following witnesses for the defence:-

1. Singlachar. 2. Parthasarahathy Iyengar. 3. Muniswamy. 4. Kandasan chetty. 5. Mr. H.R. Guruvareddy. 6. Murugappa Setty.

and filed the following exhibits.
EX.D1. Bill issued from D.W1's office.
EXD2. Bill Book
D2 (a) Carbon entry of EX.D.1
EXD3. Order form.

IMMEDIATE AND CONFIDENTIAL.

Dear Sir,

It is learnt that the case in which Mr. K.T. Bhasyam and other were convicted by the First Class Magistrate, Bangalore, is under appeal before the Sessions Judge, Bangalore. I am to enquire whetner you have received the notice of appeal from the Sessions Court and whether you think it is sufficient to enrtrust the case to the Public Prosecutor in the usual course or whether it is necessary to engage the services of the Government Advocate for the purpose. If this is, however one of the cases which Mr. Rajaratnam conducted in the lower court as Special Public Prosecutor, it is better if the appeal is also entrusted to him alone.

The matter may kindly be treated as Immediate and a reply sent to me in the course of the day.

Yours sincerely,

To

M.Seshadri, Esq., M.A.,
District Magistrate,
BANGALORE.

With reference to your confidential demi official letter No. 453/P of yesterday's date, about the arrangements for the conduct of the appeal in the case in which Mr. K. T. Bhashyam and others were convicted by the First Magistrate, Bangalore, I write to say that the appeal has been posted for the 15th of next month and notice has been received by me. I have consulted the City Superintendent of Police and I think there is no need to engage the Government Advocate for arguing the appeal ~~in behalf~~ on behalf of the prosecution. The case was conducted in the lower Court by Mr. Rajaratnam and I think he may be asked to appear in the Appellate Court also.

Yours sincerely,

M Seshadri

P. Mahadeviah, Esq., B.A., B.L.,
Secretary to the Government of Mysore,
Law Department,
Bangalore.

Judicial 129-30-3

General and Revenue Secretariat,

Bangalore, Dated the 19th September1930

D.O.No.

CONFIDENTIAL.

Dear Sir,

In reply to your confidential D.O.No.C.C. 96/30-31 dated the 18th instant regarding the appeal filed by Mr.K.T.Bhashyam and others in the Sessions Court, Bangalore, I am to state that Mr. Rajaratnam may, under the circumstances, be requested to appear for the prosecution in the appeal. The result of the appeal as also the progress made on the 15th October and the subsequent dates of hearing, if any, may kindly be intimated to me without delay

Yours Sincerely,

M.Seshadri, Esq., M.A.,

District Magistrate,

13th November 1930.

The District Magistrate,
Bangalore.

I am directed to invite reference to this Office D.O. No. 454/P dated 19th September 1930 regarding the appeal filed by Mr. K.T.Bhashyam and others in the Sessions Court Bangalore and to enquire as to what happened to the appeal on the 15th October and to which date if any, the case is adjourned for hearing.

I have the honor to be,
Sir,
Your most obedient servant,

For Legal Remembrancer and
Secretary to Government
Law Department.

Appendix F G—1

SUBJECT.....

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Section

ile No.

Serial No.

No. D2749

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue 13/11

Signed by Mr N R Rao

To

The District Magte Bangalore

Sir,

I am directed to invite reference to his office D.O No 454/P dated 19th Sept 1930 re: the appeal filed by Mr. K.T. Bhashyam and others in the Sessions Court Bangalore and to ~~request that the Progress made~~ enquiries to what happened to the appeal on the 15th October to which and ~~no subsequent~~ date of hearing ~~to which~~ any ~~may kindly~~ was or is adjourned for hearing ~~be intimated at a very early~~

In all future communications please quote—
No. II-1598/30-31
Enc. Nil

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT. 31

Dated, Bangalore, the 20th November *1930*

253723 p 83

FROM

Moin-Ul-Vizarath
A.K. Syed Taj Peeran, Esq., B.A.,
District Magistrate,
Bangalore District.

To

P. Mahadevayya, Esq., B.A.,B.L.,
Secretary,
to the Government of Mysore.
Law Department, Bangalore.

SIR,

Subject :—

With reference to your letter No.P.2749/Law dated the 13th instant re. the appeal filed by Mr. K.T. Bhashyam and others, in the Sessions Court, Bangalore, I have the honour to state that judgment has not yet been pronounced by the Additional District and Sessions Judge. The case is posted to 29-11-1930 for judgment.

I have the honour to be,
Sir,
Your most obedient servant,

District Magistrate,
Bangalore District.

39 3141 P

In all future communications please quote
No. J.1.2002/30-31
Enc.

Tel. Address.—"DEPCOM"
Post Box No. 34.

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the 20th December *1930*

Home 179-30-4

FROM

Moin-Ul-Vizarath
A. K. Syed Taj Peeran, Esq., B.A.,
District Magistrate,
Bangalore District.

To

P. Mahadevayya, Esq., B.A., B.L.,
Secretary,
to the Government of Mysore.
Law Department, Bangalore.

SIR,

Subject:—

I have the honour to state that in connection with the Revision Petition filed by Mr. K.T. Bhashyam before the High Court, the Government Advocate sent me a notice from the High Court stating that the case is posted to 5-1-1931. I wrote him that the petiton may be opposed and that the City Superintendent of Police would give him instructions. Mr. P. Rajaratnam, Special Pulbic Prosecutor was also requested to send the connected records to the Government Advocate. I recommend that Mr. P. Rajaratnam, Special Public Prosecutor, who conducted the prosecution in the lower Court and who also supported the conviction in appeal may be deputed to assist the Government Advocate in the conduct of the case before the High Court.

I have the honour to be,
Sir,
Your most obedient servant,

District Magistrate,
Bangalore District.

Appendix F G—1

SUBJECT.....

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Diary No. of letter replied to.....

Section Law

File No. 129-20

Serial No. 5

No P 3799

General and Revenue Secretariat

( )

the *193*

To

The Govt Advocate

Bangalore.

Date of issue 2-1-31

Signed by [illegible]

Sir

It is learnt that in Criminal Revn petition filed by Mr. K.T. Bhashyam before the High Court of Mysore against the Conviction in C.C. 74 of 29-30 on the file of the First Majr

and report the result of the
Case in due Course for the
information of Government

Thaveet

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. F 3955/30 Law Dated, Bangalore, 7th January 1931

From

Chief
The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The District Magistrate,
Bangalore.

Sir,

With reference to your letter No.J.I. 1-2002/30-31 dated 20th December 1930, regarding the revision petition filed by Mr. K.T.Bhashyam in the High Court, I am directed to forward herewith for your information a copy of the letter No.P. 3799 dated 2nd January 1931 addressed to the Government Advocate in the matter.

I am also to request you to kindly send for the information of Government a copy of the judgment pronounced by the Additional Sessions Judge,Bangalore in the appeal, out of which the present revision petition arises.

I have the honor to be,

Sir,

Your most obedient servant,

For Chief Secretary to Government.

Appendix F G—1

SUBJECT.....

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Section Law

File No. 129-30

Serial No. 6

Diary No. of letter replied to.....

No. 3953 (1)

General and Revenue Secretariat

( )

the *193*

To The DF maps Bangalore

Date of issue 8/4/31

Sir,

Signed by.....

With reference to your letter no JJ. 1. 2002/30-31 dated 20th Dec 1930, regarding ~~recommending~~ The revision petition filed ~~to engage the services of Mr. P. Rajamannar to assist the Govt Advocate in the Conduct of the Rev. Pet. filed~~ by Mr K. Bhashyam in ~~before~~ the H. Ct, I am directed to forward herewith for your information a copy of the letter

I am also to ~~ask~~ request You to kindly send for the information of Govt a Copy of the Judgment pronounced by the Addl Sessions Judge, Barabanki in the case out of which appeal may kindly be sent. The present revision petition for the information of the Govt arises ~~on a very early date~~

4.

35 P

In all future communications please quote
No.....J.1-2002/30-31.
Enc.

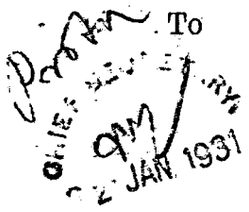
Tel. Address.—"DEPCOM"
Post Box No. 34.

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the .....20th January.....*1931*.

FROM Moin-Ul-Vizarath
A.K. Syed Taj Peeran, Esq., B.A.,
District Magistrate,
Bangalore District.

To



N. Madhava Rao, Esq., B.A.,B.L.,
Chief *Secretary,*
to the Government of Mysore.
Bangalore.

SIR,

Subject:—

With reference to your letter No.P.3955 (1) Law dated 8-1-31 I have the honour to state that the Additional District and Sessions Judge, Bangalore Division intimates that the entire records in Criminal Appeal 23/30-31 preferred by Mr. K.T. Bhashyam Iyengar and others have been submitted to the High Court for reference in Criminal Revision Pet.155/30-31 and hence a copy of the judgment could not be sent. The City Superintendent of Police has been requested to obtain a copy and submit it early. On its receipt it will be duly submitted.

I have the honour to be,

Sir,

Your most obedient servant

District Magistrate,
Bangalore District.

M. RAMACHANDRA RAO, Esq., B.A., B.L.,
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,
Bangalore, 2nd March 1931.

D. O. No. 49

Dear Sir,

In the matter of Criminal Revision Petition No. 155 of 1930-31 on the file of the High Court of - Mysore. (Mr. K. T. Bhashyam Iyengar and others VS. The Government of Mysore).

I write to inform you that orders were pronounced in the above case to-day, setting aside the convictions and sentences passed against all the petitioners and acquitting them.

2. A copy of the Judgment will be applied for, and the same sent to you as soon as it is - received in this office.

In all future communications please quote
No. J1-2002/30-31.
Enc.

FROM Moin-Ul-Vizarath
A.K. Syed Taj Peeran, Esq., B.A.,
District Magistrate,
Bangalore District.

To

P. Mahadevayya, Esq., B.A.,B.L.,
Secretary,
to the Government of Mysore.
Law Department, Bangalore.

SIR,

Subject :—

I have the honour to state that the City Superintendent of Police, Bangalore reports that Mr. K.T. Bhashyam Iyengar and others were acquitted by the High Court in Criminal Revision petition 155/30-31 against the affirmed conviction by the Additional Sessions Judge in C.A.28/30-31

I have the honour to be,
Sir,
Your most obedient servant,

District Magistrate,
Bangalore District

SS/-. 14/3